

Scope of Proposed Rule

Employee Trust Funds

The Department of Employee Trust Funds (DETF) gives notice pursuant to Wis. Stat. § 227.135 that it proposes to modify an existing administrative rule, specifically Wis. Admin. Code § ETF 20.25 (1) (a) and (2). This proposed rule corresponds to an emergency rule being promulgated by DETF.

SUBJECT

This proposed rule will affect the annual effective date of post-retirement annuity adjustments, or so-called “annuity dividends,” under Wis. Stat. §§ 40.27 (2) and 40.28 (2).

DESCRIPTION OF POLICY ISSUES

All Wisconsin Retirement System annuities are paid, in part, from the fixed retirement investment trust. Some annuitants also participate in the variable retirement investment trust. There are often great differences between the annual “fixed” and “variable” dividends, but adjustment to both types of annuity are made at the same time each year.

Previously, annuity dividends for both the fixed retirement investment trust and the variable retirement investment trust were effective on April 1 of each year and therefore appeared on the May 1 annuity check. The April 1 date was set by administrative rule. Last year the DETF revised its rule. Clearinghouse Rule #02-049, effective on October 1, 2002, amended Wis. Admin. Code § ETF 20.25 (1) (a) and (2) to alter the April 1 date to read “March 1.” See the Administrative Register, September 2002, No. 561.

The change to the earlier effective date for dividends was made at the request of annuitants, who wanted to receive the benefits of dividend increases as soon as possible. The April 1 date was originally the earliest the DETF could make the changes each year. However, due to improved automation of the calculation and distribution of the dividends, it is now administratively feasible to make the adjustments a month earlier than was previously possible. In addition, the change from April 1 to March 1 is more in accord with the timing of the actuary’s annual valuations.

The first dividend actually to be affected by the 2002 rule (CR #02-049) would be the dividend payable in early 2003. Projections indicate that, due in large part to the effect of three years of market declines, the fixed division dividend will likely be 0%. The annual change to variable division annuities, which is more volatile because it reflects only the past year’s performance, will be negative and in the range of –25 to –30%. This means that the portion of an annuitant’s annuity payable from the fixed division will not increase during 2003, while, if the

annuitant receives a portion of his or her annuity from the variable annuity division, that portion of the annuity will be reduced.

Annuitants are understandably concerned about cuts to their annuities being made effective earlier this year than in previous years. The intention behind CR #02-049 was to give annuitants their dividends as early as possible. When drafting of the rule began in early 2002, the year-end market earnings were unknown. The DETF, Employee Trust Funds Board, Wisconsin Retirement Board and Teachers Retirement Board are therefore reconsidering CR #02-049 and how its short-term effects may be mitigated.

This scope statement is for a proposed rule that would amend Wis. Admin. Code § ETF 20.25 (1) (a) and (2), again. An emergency rule is being promulgated to effectively block implementation of the new March 1 date for this year. Since the emergency rule can remain in effect only for a limited time, either a new permanent rule must be promulgated or, by default, March 1 will be the effective date for future dividends in 2004 and afterwards.

Objectives of the Rule

To avoid additional short-term harm to individual WRS annuitants who will already bear the effects of the market downturn through a zero percent fixed annuity dividend and a double-digit negative variable change.

The proposed rule would not change the new, lower, one-tenth of one percent threshold for prorated fixed dividends created by CR #02-049. For fixed division annuities effective during the immediately preceding year, the full dividend payable to long-term annuitants is prorated, based on the number of full months (out of a possible 12) that the annuity had been in effect. However, no prorated dividend was payable unless it was over a threshold of 1%. Increased automation makes it administratively feasible to adjust annuities by a smaller amount. So, the 2002 rule-making lowered the threshold to payment of a prorated dividend on an annuity from the fixed retirement from the previous 1% to one-tenth of a percent (0.1%). The DETF and Boards are not reconsidering that aspect of CR #02-049, which did not affect variable annuities at all.

Policy Analysis

The proposed rule would restore the *status quo ante*, with respect to dividend effective dates, so that annuity dividends would be payable on the same schedule as before CR #02-049 was promulgated. The DETF, Employee Trust Funds Board, Wisconsin Retirement Board and Teachers Retirement Board will consider whether the effective repeal of the provisions of CR #02-049 changing “April 1” to “March 1” should be permanent, temporary until some specified future date, or temporary depending on market conditions.

DETF and the Boards are also proceeding with an emergency rule, to which this proposed rule is a companion, to block implementation of the March 1 date during 2003.

Policy Alternatives to the Proposed Rule

The policy alternatives are to:

1. Do nothing and allow future annuity “dividends,” whether positive or negative, to become effective March 1, 2004, and thereafter.
2. Change the effective date of the annual dividends from April 1 to March 1 but effective at some other time in the future.
3. Re-establish April 1 as the annual effective date for annuity dividends.

STATUTORY AUTHORITY

Wis. Stat. § 40.03 (1) (m), (2) (i), (7) (d) and (8) (d).

STAFF TIME REQUIRED

The Department estimates that state employees will spend 10 hours to develop this rule.

This Statement of Scope of Proposed Rules is
Hereby Approved This 17th Day of March, 2003

Eric O. Stanchfield, Secretary
Department of Employee Trust Funds